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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,604	01/27/2004	Karla E. Williams	460.1844USV1	3398

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CHARLES N.J. RUGGIERO, ESQ.  
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.  
ONE LANDMARK SQUARE, 10th FLOOR  
STAMFORD, CT 06901-2682

EXAMINER
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ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/766,604	<b>Applicant(s)</b> WILLIAMS, KARLA E.	
	<b>Examiner</b> Lynne Anderson	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-25,27-33,39,40,42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-25,27-33,39,40,42 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 November 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 23-25, 27-33, 39-40, and 42-43 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23, 40, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarracino et al. (5,944,704).

5. Guarracino discloses all aspects of the claimed invention with the exception of zeolite being the only odor-absorbing material. Guarracino discloses a tampon, as disclosed in column 1, line 11, comprising zeolite granules 14 sandwiched between first and second nonwoven webs 8, as shown in figure 1. The zeolite granules are

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incorporated into the tampon by the method of distributing the zeolite on the first web and bonding the second web to the first web, as disclosed in column 5, lines 5-10, and column 8, lines 45-47.

6. Guarracino discloses incorporating zeolite in combination with other odor-control materials, but the use of only zeolite as a suitable odor-control material for use in absorbent articles is commonly known, and providing only one odor-control material simplifies the production process. Omission of an element and its function is obvious (see MPEP 2144.04(II)), and in the present case omission of the odor-control materials other than zeolite would still result in an article that reduces odors. Since the function of the final product remains the same, omission of the additional odor-control materials would be obvious. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the tampon of Guarracino with only zeolite, to achieve the predictable result of providing suitable odor control by a simplified and less costly production process.

7. With respect to claims 40 and 43, the tampon comprises 0.3 g of zeolite, as disclosed in column 6, Table 1.

8. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarracino et al. (5,944,704) in view of Kramer et al. (5,165,152).

9. With respect to claims 24-25, Guarracino discloses all aspects of the claimed invention with the exception of the step of cutting the webs prior to forming the tampon. Kramer teaches the method of forming a tampon by cutting a web to form the tampons,

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as described in column 10, lines 41-48. This method allows for the high-speed mass production of tampons, as described in the Abstract. It would therefore be obvious to one of ordinary skill in the art at the time of invention to form the tampons of Guarracino using the step of cutting taught by Kramer to allow for high-speed mass production of the tampons.

10. Claims 27-29 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarracino et al. (5,944,704) in view of Kramer et al. (5,165,152), and further in view of Marcus et al. (4,826,497).

11. Guarracino, as modified by Kramer, discloses all aspects of the claimed invention with the exception of the zeolite being clinoptilolite. Marcus teaches the use of zeolite as an odor absorbent in absorbent articles such as tampons, as disclosed in column 1, lines 8-16 and 60-65. Marcus discloses that natural zeolites such as clinoptilolite provide preferred odor suppression, as described in column 3, lines 22-34. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the tampon of Guarracino with clinoptilolite, as taught by Marcus, to provide improved odor suppression.

12. Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarracino et al. (5,944,704) in view of Kramer et al. (5,165,152) and Marcus et al. (4,826,497), and further in view of Hoyes et al. (6,030,608).

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13. Guarracino, as modified by Kramer and Marcus, discloses a tampon comprising the natural zeolite clinoptilolite, but does not disclose the type of clinoptilolite. Hoyes teaches that clinoptilolite has the chemical name of potassium aluminosilicate. The amount of potassium and the density of clinoptilolite are inherent to the chemical structure of the compound. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the tampon of Guarracino with potassium aluminosilicate clinoptilolite, since this is the chemical name of clinoptilolite, as evidenced by Hoyes.

14. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guarracino et al. (5,944,704) in view of Marcus et al. (4,826,497).

15. Guarracino discloses all aspects of the claimed invention with the exception of the size of the particles of zeolite. Marcus teaches the use of zeolite as an odor absorbent in absorbent articles such as tampons, as disclosed in column 1, lines 8-16 and 60-65, and further teaches a suitable size for the zeolite particles of about 500 microns. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the tampon of Guarracino with zeolite particles having a size of 500 microns, as taught by Marcus, to provide zeolite in a suitable size for use as an odor absorbent in a tampon.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./  
Examiner, Art Unit 3761  
/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761